IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1622 OF 2007

Sayed A.S.H. .. Petitioner.
Vs.
Larsen & Toubro Ltd. .. Respondent.

Mr.K.P.Anilkumar for the petitioner.
Mr.K.M.Naik for the respondent.

CORAM : D.B.BHOSALE, J.
DATED : 24TH SEPTEMBER, 2007.

P.C.:

. Heard learned counsel for the parties.

2. The petitioner has taken exception to the Awards Part-I and Part-II dated 18.7.2005 and 7.4.2007 respectively by which a reference made by the Commissioner of Labour, Mumbai under section 10(1) and 12(5) of the Industrial Disputes Act, 1947 stands dismissed. The Labour Court has held that the enquiry conducted against the petitioner was fair and proper and that the findings recorded by the enquiry officer cannot be termed as perverse.

3. Mr.Anilkumar, learned counsel for the petitioner has challenged the findings on the issue of enquiry being fair and proper on two grounds. Firstly, the Management had made discrimination

between Shaikh and the petitioner, who were similarly placed and involved in the very same incident by allowing Shaikh to retire, and secondly, that the witness who was examined by the petitioner was harassed and as a result of which other witnesses did not come forward and depose in favour of the petitioner.

4. It appears that there was an incident of schuffle and assault on 12.9.1997 between the petitioner and the co-worker - Shaikh. Both were issued charge-sheets for allegedly committing serious misconduct under clause 21(1), 22(11) and 22(12) of the Certified Standing Orders. During pendency of the enquiry itself Shaikh had superannuated on 31.10.1999 and in view thereof enquiry was not prosecuted further. The record reveals that the enquiry was conducted against Shaikh and the findings were also received, however, no final orders were passed in view of his superannuation. This fact has not been disputed by the petitioner. In the circumstances the first submission of Mr.Anilkumar must be rejected.

5. Insofar as the second submission is concerned it appears that Mr.R.R.Belekar was examined by the petitioner and his examination got over on 27.7.1999.

The next date of hearing was fixed on 27.8.1999. Mr.Anilkumar, learned counsel for the petitioner invited my attention to the letter dated 8.9.1999 issued by Belekar addressed to the General Manager of respondent-company stating about the alleged harrassment and threats of dire consequences for giving evidence in favour of the petitioner in the enquiry. I perused the material to which my attention was drawn by the learned counsel for the parties. It is clear that the petitioner did not state either orally or in writing as to what prejudice was caused to him, apart from the fact that he did not make such grievance of the alleged harassment to the witness before the enquiry officer. Even before this Court, the learned counsel for the petitioner could not demonstrate as to what prejudice was caused to the petitioner. In the circumstances the second submission also deserves to be rejected outright. Considering the findings of fact recorded by the courts below and as I find sufficient material on record to sustain those findings and considering extraordinary jurisdiction of this court under Article 226 of the Constitution of India to interfere with the findings of fact this writ petition deserves to be dismissed. Order accordingly.

(D.B.BHOSALE, J.)